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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,838	10/24/2006	Nathan Boyd	148/432US	7571
23638 7590 06/04/2009 ADAMS INTELLECTUAL PROPERTY LAW, P.A. Suite 2350 Charlotte Plaza 201 South College Street CHARLOTTE, NC 28244				
EXAMINER				
FRANK, RODNEY T				
ART UNIT		PAPER NUMBER		
2856				
MAIL DATE		DELIVERY MODE		
06/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,838

Applicant(s)

BOYD, NATHAN

Examiner

RODNEY T. FRANK

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7, 8, and 10-22 is/are rejected.
- 7) ☒ Claim(s) 6 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 21 is objected to because of the following informalities: the word "or" between "to" and "claim" in the first line of the claim needs to be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 5, 7, 8, 10, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleenor et al. (U.S. Patent Number 4,163,392; hereinafter referred to as Fleenor). Fleenor discloses an intake channel pre-conditioner for a fluid sampler wherein prior to fluid sampling, fluid is drawn from a fluid body to be sampled by a pressure source communicating with the channel. The drawn fluid is passed along most of the length of the intake channel and then expelled by the pressure source (Please see the abstract).
5. With respect to claim 1, Fleenor discloses a sampler purge system. The device is disclosed and illustrated in figure 1 as an apparatus with a means of connecting the

apparatus to the mains supply (35) a test chamber (15), a fluid tester (not shown, but disclosed in column 3, lines 20-32) for testing a variable of a fluid in the chamber and a purger (13) for purging a volume of fluid from the testing chamber. The claim calls for a volume of fluid that is substantially larger than the volume of the testing chamber. This limitation is not explicitly disclosed in the reference. However, since there is a constant need to purge the sample chamber in order to refill it, then the volume of the water that is purged is going to be larger than the volume of the chamber, and thus this limitation would appear to be met by the mere operation of the device. The purger replaces the fluid in the testing chamber with new fluid and the device has a pressure sensor (29) for measuring fluid pressure.

With respect to claim 2, the water supply (37) is attached to a pipe, and this set up would constitute a hydrant, though not explicitly disclosed as such.

With respect to claims 4-7, the figures illustrate a controller (17) to control the purger and its operation. While the specific parameters of said purge controller are not explicitly disclosed in the reference, the design parameters are well known parameters to one of ordinary skill in the art and would be considered obvious to one of ordinary skill in order to have the device operate as intended and at a high performance rate.

With respect to claim 8, column 3 lines 58 through 61 disclose the purging procedure. While not explicitly disclosed as such, there must be some purge time that is associated in order to purge the chamber from the fluid.

With respect to claim 10, column 3, lines 23 through 31 disclose the use of a conductivity sensor in the test chamber, though it is not shown in the figures.

With respect to claim 12, the water is purged from the chamber to a container. The container is an atmosphere of its own, so therefore the device is vented to atmosphere, the atmosphere of the sample container.

With respect to claim 13, column 3, lines 9 through 14 disclose the use of a memory.

With respect to claim 14, while not explicitly disclosed, if the device utilizes a memory, then the device would be able to download the memory data to something in order for the device to operate.

With respect to claim 15, the device would need a power source in order to operate so the inclusion of a power cell, though not disclosed, would be obvious in order for the device to work as intended.

With respect to claims 16, 17, 18, 20, and 21, the device is disclosed to work with water and a fluid.

With respect to claim 19, the figures illustrate the device connected to a fluid main supply.

With respect to claim 22, Fleenor discloses a sampler purge system. The method is disclosed and the device to practice the method is illustrated in figure 1 as a method of operating a fluid monitoring apparatus for monitoring a fluid in a main supply by connecting the apparatus to the mains supply (35) a test chamber (15), a fluid tester (not shown, but disclosed in column 3, lines 20-32) for testing a variable of a fluid in the chamber and a purger (13) for purging a volume of fluid from the testing chamber. The claim calls for a volume of fluid that is substantially larger than the volume of the testing

chamber. This limitation is not explicitly disclosed in the reference. However, since there is a constant need to purge the sample chamber in order to refill it, then the volume of the water that is purged is going to be larger than the volume of the chamber, and thus this limitation would appear to be met by the mere operation of the device. The purger replaces the fluid in the testing chamber with new fluid and the device has a pressure sensor (29) for measuring fluid pressure.

Allowable Subject Matter

6. Claim 23 is allowed.
7. Claims 6 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RODNEY T. FRANK whose telephone number is (571)272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hezron Williams/
Supervisory Patent Examiner, Art
Unit 2856

/R. T. F./
Examiner, Art Unit 2856
June 4, 2009